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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,273	11/06/2000	Charles Eric Hunter	WT-13	8435
23377	7590	01/12/2005	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/707,273

Applicant(s)

HUNTER ET AL

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,7,9-20 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4-6,8,37 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

1. This Office Action is the answer to the election received on 10/22/2004, which paper has been placed of record.
2. Group II including claims 2, 4-6, 8, 21-37, and 39 are elected to be prosecuted.

#### Drawings

3. The informal drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore: the graphical user interface to help customers select music selections for recording; the graphical user interface that identifies music selections by artist, title, and category; and, the graphical user interface that prompts the customer to insert a recording medium into the user station, must all be shown or the feature(s) cancelled from the claim(s).

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawings. MPEP § 608.02(d). In this case, the particular detailed features being claimed, various particular screens/pages, must all be shown.

4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2, 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulhof et al. (US 5,572,442).

Schulhof et al. teach a product/a system/a method of distributing music to customer households comprising the means/steps of:

- blanket transmitting a plurality of music selections to customer households by direct broadcast satellite (DBS) at data transmission rates faster than real time (see Schulhof et al., Figs. 1, 5, 7; 5:50-60);
- providing each customer household with information identifying available music selections that will be transmitted (see Schulhof et al., the abstract, Figs. 1, 4, 6; 5:6-20, 50-67; 7:5-53, and 9:20-26);
- permitting each customer household to preselect and record desired music selections on a high capacity storage medium (i.e., read/write CDs, magneto-optical disks, or digital tapes .etc. - see Schulhof et al., the abstract, Figs. 1, 4, 6; 5:6-20, 50-67; 7:5-53, and 9:20-26);

- permitting each customer household to playback recorded music selections (see Schulhof et al., Figs. 1, 4, 6; 4:48 to 5:20; 5:20-67; 7:5-53, and 9:20-26);
- communicating music playback information from each customer household to a central controller system; and billing customer households for the recorded music selections that are made available for playback (see Schulhof et al., 4:48 to 5:20, 6:24-52; 7:54 to 8:2-53, 10:42-65, and 9:20-26).

Please note also that claim 39 has a technological art problem (35 USC 101).

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 8, 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), in view of McMillen et al. (US Pat. 5,483,535).

Schulhof et al. teach all claimed information in these claims except a peer-to-peer communication network utilizing residential phone lines, modem, and Internet. Schulhof et al. also teach about scheduling a broadcast for the order based upon ordered records.

However, McMillen et al. suggest a use of peer-to-peer communication network for music trans-receiver (see McMillen et al., the abstract, and the summary).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., and McMillen et al. teachings to suggest that product/system/method 's taking place in a peer-to-peer environment because this environment fit with distributing music roles: while one device is sending data, there is not another device on the ring sending it all ones instead, the data sent by that device goes all the way around the ring and back to the sender.

7. Claims 21-23, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), in view of McMillen et al. (US Pat. 5,483,535), and in view of the Official Notice.

The rationales and references for a rejection of claim 4 are incorporated.

Schulhof et al., and McMillan may not expressly disclose:

- placing an icon within a catalog;
- placing a highlight within a catalog;
- creating a customer's profile;
- Using a cell-phone to order;
- Using a Personal Data Assistant (PDA) to order;
- Ordering via wireless application protocol (WAP);

- However, the Official Notice is taken here that above features are old and well-known in computer record keepings and orderings; a computer operator can put a flag to alarm/notice an event, wireless techniques applications in orderings, and using a profile/history for efficiently retrieving related information have been practiced.

- It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., and McMillen et al., and the above-taken Official Notice teachings to suggest that product/system/method using the available notifying and retrieving techniques for an efficient task of operating a music distribution system.

- 8. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), in view of McMillen et al. (US Pat. 5,483,535), and in view of Delaney et al. (US Pat. 6,061,440).

The rationales and references for a rejection of claim 24 are incorporated.

Schulhof et al., and McMillan may not expressly disclose about transmitting music occurs within or outside of KU band.

However, Delaney et al. suggest about transmission within or outside of KU band as claimed.

- It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., Delaney

et al., and McMillen et al., to suggest that suggest about transmission within or outside of KU band in operating a music distribution system because Ku band is an well-known audio frequency in the 12-to-14-gigahertz range. Part of the KU band is used by radio and TV stations for satellite transmission. The communications satellite that operates in the Ku band is the Ku satellite; its relays can be received with a relatively small dish, or microwave transmitter, such as those next to small homes for music distributions.

- 9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), in view of McMillen et al. (US Pat. 5,483,535), and in view of Gardner et al. (US Pat. 6,229,453).

The rationales and references for a rejection of claim 24 are incorporated.

Schulhof et al., and McMillan may not expressly disclose about using a compression rate of at least 60 to 1.

- However, Gardner et al. suggest that feature (i.e., in detailed Description Text portion (para. 9): "Another criterion important in downhole video transmission is the compression ratio. A 1:1 compression ratio indicates that no compression has taken place and that all the information contained in the video signal is transmitted uphole. Progressively higher compression ratios require less data to be sent uphole, but with a concomitant degradation of video picture quality. Nonetheless, a minimal amount of video compression results in a picture that includes no perceivable difference from an uncompressed video picture. For wavelet technology, a compression ratio of 30:1 is indistinguishable from an uncompressed signal to the human eye, while a compression ratio of 60:1 has minimal degradation of the video signal."

- It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., Gardner



et al., and McMillen et al., to suggest about a compression ratio of 60:1 for minimal degradation of the video signal.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 703-305-8233. The fax phone number for the organization where this application is assigned is 703-305-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Cuong H. Nguyen*

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Art Unit 3661